



15 SEP 2008

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In re Application of	:	DECISION ON
Viksoe-Nielsen et al	:	
Application No.: 10/561,671	:	
PCT No.: PCT/DK2004/000456	:	
Int. Filing Date: 25 June 2004	:	PETITION UNDER
Priority Date: 25 June 2003	:	
Attorney's Docket No.: 10473.204-US	:	
For: STARCH PROCESS	:	37 CFR 1.10 (c)

This decision is in response to applicants' "REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 C.F.R. 1.10(c)" filed on 25 July 2008, requesting that the filing date of December 22, 2005 be changed to December 20, 2005 for the national stage submission for the above identified application. No fee is required for this petition.

### **BACKGROUND**

In a decision from this Office on 17 July 2008, the decision stated that item (1) was not met because it was unclear why it took applicant so long to file the petition.

On 25 July 2008, applicants filed the present renewed petition stating that they became aware of the mistake when they received the received the filing receipt on May 9, 2008.

### **DISCUSSION**

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

Applicants have now satisfied items (1) – (3) of 37 CFR 1.10(c)

The petition was filed promptly because it was filed shortly after the applicants received the filing receipt on May 9, 2008, which showed an incorrect date. Applicants were under the assumption that the Office would grant the correct date even though the return stamped postcard had a date of 22 December 2005 from the USPTO. 37 CFR 1.10(c)(1).

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 09 May 2008 is **VACATED** with the mailing of this decision.

### **CONCLUSION**

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **20 December 2005**.



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